

COMPLAINT INVESTIGATION SUMMARY

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| COMPLAINT NUMBER: | 2082.04 |
| COMPLAINT INVESTIGATOR: | Sally Cook |
| DATE OF COMPLAINT: | January 12, 2004 |
| DATE OF REPORT: | February 9, 2004 |
| REQUEST FOR RECONSIDERATION: | no |
| DATE OF CLOSURE: | March 17, 2004 |

COMPLAINT ISSUES:

Whether the Gary Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide the student with homebound instruction/services required by the IEP.

FINDINGS OF FACT:

1. The Student is ten years old and is eligible for special education and related services due to a visual impairment (V.I.).
2. The Student's case conference committee (CCC) met on November 5, 2003, to consider a homebound placement because the Student's post-surgical medical care precludes the Student's attendance at school. The Student's individualized education program (IEP), as revised November 5, 2003, calls for 8 hours per week of homebound instruction and supports for personnel consisting of "teacher-tutor (home teacher) collaboration." In the Present Levels of Performance section of the IEP, it was noted that the Student is able to tolerate instruction time of 2 hours per day, 4 days per week. The anticipated starting date for homebound services was November 13, 2003.
3. The School Corporation did not succeed in finding teachers to undertake assignment(s) to provide the full amount of homebound instruction required by the Student's IEP:
 - a. Teachers licensed in the area of V.I. were also asked to consider the homebound assignment. They were unable or unwilling to accept a homebound assignment.
 - b. After initially declining the assignment, a teacher licensed in the area of V.I. (Teacher of Record) accepted an assignment to provide 12 hours of homebound instruction to the Student during the period from December 12, 2003, through January 15, 2004. The scope of the assignment included instruction in Braille, daily living (orientation and mobility), math, and language arts.
 - c. A special education teacher who is not licensed in the area of V.I. (Teacher of Service) was asked to provide 3 hours/week of the Student's homebound instruction. The Complainant questioned the appropriateness of a teacher who does not know Braille. The Teacher of Service did not accept the assignment.
4. As of January 30, 2004, nine school weeks had passed since the anticipated starting date of the Student's IEP. According to the IEP, the School Corporation should have made available 72 hours of

homebound instruction during that 9-week period. The School Corporation made available 24 hours of homebound instruction, as follows:

- a. No homebound instruction was provided during the 2-week period from November 13, 2003, to November 26, 2003. (School was not in session for the next 2 days, due to the Thanksgiving holiday.)
- b. In December, 2003, there were 3 weeks when school was in session. The Teacher of Record provided 6 hours of homebound instruction, including 2 hours provided during Winter Break.
- c. In January, 2004, there were 4 weeks of school. As the Student's IEP did not specify the days of the week that homebound instruction was to be provided, the required number of hours per week is not affected by the school holiday on January 19, 2004, or the half-day on January 23, 2004. During the month of January, 2004, the Teacher of Record offered to provide 18 hours of homebound instruction and did provide 16 hours of homebound instruction. The Teacher of Record was prepared to provide 2 hours of homebound instruction during the week of January 5 – 9, 2004, but was informed by a member of the Student's family that, due to continuing medical treatment, the Student was not feeling well enough for homebound instruction.

CONCLUSIONS:

1. Findings of Fact # 2, #3, and #4 indicate that the School Corporation did not provide the Student with the full amount of homebound instruction/services required by the IEP. Therefore, a violation of 511 IAC 7-27-7(a) occurred.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

On or before February 18, 2004, Gary Community Schools shall reconvene the Student's case conference committee (CCC) to develop, review, and revise the Student's individualized education program, including consideration of 48 hours of compensatory services. Documentation of compliance (consisting of the Case Conference Report/IEP) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners by March 3, 2004.